

Case No. 2023-2330

**UNITED STATES COURT OF APPEALS
FOR THE FEDERAL CIRCUIT**

NORTHERN HOSPITALITY GROUP, INC.,
dba 49th State Brewing Co.,

Appellant,

v.

ALASKAN BREWING & BOTTLING CO.,

Appellee.

Appeal from the United States Patent and Trademark Office
Trademark Trial and Appeal Board
Opposition No. 91264066

**MOTION FOR 60-DAY EXTENSION OF TIME TO FILE APPELLANT'S
REPLY BRIEF; DECLARATION OF DANIEL J. MCCARTHY**

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*Attorneys for Appellant,
Northern Hospitality Group, Inc.*

**UNITED STATES COURT OF APPEALS
FOR THE FEDERAL CIRCUIT**

CERTIFICATE OF INTEREST

Case Number 23-2330

Short Case Caption Northern Hospitality Group, Inc. v. Alaskan Brewing & Be

Filing Party/Entity Northern Hospitality Group, Inc.

Instructions:

1. Complete each section of the form and select none or N/A if appropriate.
2. Please enter only one item per box; attach additional pages as needed, and check the box to indicate such pages are attached.
3. In answering Sections 2 and 3, be specific as to which represented entities the answers apply; lack of specificity may result in non-compliance.
4. Please do not duplicate entries within Section 5.
5. Counsel must file an amended Certificate of Interest within seven days after any information on this form changes. Fed. Cir. R. 47.4(c).

I certify the following information and any attached sheets are accurate and complete to the best of my knowledge.

Date: 09/08/2023

Signature: /s/ Daniel J. McCarthy III

Name: Daniel J. McCarthy III

FORM 9. Certificate of Interest

Form 9 (p. 2)
March 2023

Additional pages attached

4. Legal Representatives. List all law firms, partners, and associates that (a) appeared for the entities in the originating court or agency or (b) are expected to appear in this court for the entities. Do not include those who have already entered an appearance in this court. Fed. Cir. R. 47.4(a)(4).

None/Not Applicable Additional pages attached

5. Related Cases. Other than the originating case(s) for this case, are there related or prior cases that meet the criteria under Fed. Cir. R. 47.5(a)?

Yes (file separate notice; see below) No N/A (amicus/movant)

If yes, concurrently file a separate Notice of Related Case Information that complies with Fed. Cir. R. 47.5(b). **Please do not duplicate information.** This separate Notice must only be filed with the first Certificate of Interest or, subsequently, if information changes during the pendency of the appeal. Fed. Cir. R. 47.5(b).

6. Organizational Victims and Bankruptcy Cases. Provide any information required under Fed. R. App. P. 26.1(b) (organizational victims in criminal cases) and 26.1(c) (bankruptcy case debtors and trustees). Fed. Cir. R. 47.4(a)(6).

None/Not Applicable Additional pages attached

TO THE COURT AND ALL PARTIES:

Pursuant to Rule 26(b) of the Federal Rules of Appellate Procedure and Rule 26(b) of the Federal Circuit Rules, Appellant Northern Hospitality Group, Inc. respectfully moves this Court to extend by 60 days, from May 1, 2024 until July 1, 2024 (additional day due to falling on a weekend), the time to file its Appellant's Reply Brief. There have been no previous extensions sought for the reply brief. This motion is based upon and made for the reasons stated in the attached declaration of Appellant's counsel, Daniel J. McCarthy. Prior to making this motion, as required by Federal Circuit Rules 26(b) and 27(a)(2), Appellant's counsel asked whether Appellee would oppose this extension request. Appellant's counsel has not yet received a response.

Dated: April 24, 2024

By: /s/ Daniel J. McCarthy, III

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*Attorneys for Appellant,
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**DECLARATION OF APPELLANT'S COUNSEL, DANIEL J. MCCARTHY,
IN SUPPORT OF APPLICATION FOR EXTENSION OF BRIEFING
SCHEDULE**

I, Daniel J. McCarthy, III, declare:

1. I am an attorney duly admitted to practice before this Circuit. I am an attorney with Goldstine, Skrodzki, Russian, Nemec and Hoff, Ltd., counsel of record for Appellant Northern Hospitality Group, Inc., d/b/a 49th State Brewing Co. I have primary responsibility for drafting Appellant's Reply Brief. I make this declaration in support of Appellant's motion for a 60-day extension of time in which to file its brief, now due on May 1, 2024.

2. Pursuant to Circuit Rule 26(b)(2), I state the following:

- A. The date to be extended is for the Appellant's Reply Brief, currently due on May 1, 2024;
- B. The revised date sought is July 1, 2024;
- C. The number of days of extension sought is 60 days;
- D. The total number of days of extension previously granted is 0.

3. **Reasons for 60-Day Extension.** Subsequent to the filing of the Appellant's opening brief, the parties have been exploring the possibility of settlement. These discussions have been ongoing, and have thus far been fruitful. During the course of these discussions, the deadline for the filing of Appellee's opening brief was extended on two occasions. In counsel's view, there is a

significant likelihood that this matter will be resolved within the next few weeks. This would obviate the need to file an Appellant's Reply Brief and the need for this Court to decide the Appeal.

4. Consent to the Requested Extension: Prior to moving for this extension, as required by Circuit Rules 26(b) and 27(a)(2), counsel for Appellant contacted counsel of record for Appellee on April 24, 2024 regarding this request for an extension. Appellant's counsel has not yet received a response as of the time of filing.

5. Appellant knows of no prejudice to Appellee if this motion were to be granted. Accordingly, Appellant respectfully requests that the current briefing schedule be adjusted to extend the due date for Appellant's Reply Brief to July 1, 2024. A proposed order is submitted with this motion.

I declare under penalty of perjury of the laws of the United States of America that the foregoing is true and correct. Executed on April 24, 2024 at Burr Ridge, Illinois.

/s/ Daniel J. McCarthy, III
Daniel J. McCarthy, III

CERTIFICATE OF COMPLIANCE

The undersigned, counsel for Appellant, certifies that the text of this motion is double-spaced and printed using proportionately-spaced 14-point Times New Roman font type. The motion contains 554 words as determined by the word processing software used to create this document.

Dated: April 24, 2024

By: /s/ Daniel J. McCarthy, III

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**ORDER ON MOTION FOR 60-DAY EXTENSION OF TIME TO FILE
APPELLANT'S REPLY BRIEF**

Upon application of Appellant and for good cause shown, Appellant's motion for extension of time to file its reply brief is hereby GRANTED. The briefing schedule for Docket No. 2023-2330 is modified as follows: Appellant's reply brief is due July 1, 2024.

IT IS SO ORDERED.

Dated: _____ By: _____

CERTIFICATE OF SERVICE

I hereby certify that on April 24, 2024, I electronically filed the foregoing with the Clerk of the Court for the United States Court of Appeals for the Federal Circuit by using the CM/ECF system. I certify that all participants in the case are registered CM/ECF users and that service will be accomplished by the CM/ECF system.

In accordance with the Federal Circuit Electronical Filing Procedures section IV(A)(10) and Fed. Cir. Rules 25(c)(3) and 31(b), and upon notice of this Court's acceptance of the motion for filing, I certify that I will cause paper copies of the **Motion for 60-Day Extension of Time to File Appellant's Reply Brief; Declaration of Daniel J. McCarthy** to be transmitted to the Court and counsel for all parties of record only upon the receipt from the Court of a notice requesting paper copies.

Dated: April 24, 2024

By: /s/ Daniel J. McCarthy, III

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